

Message Text

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70

ORIGIN TRSE-00

INFO OCT-01 ISO-00 EB-07 STR-04 COME-00 ARA-10 AGR-10

CEA-01 CIAE-00 DODE-00 FRB-01 H-02 INR-07 INT-05 L-03

LAB-04 NSAE-00 NSC-05 PA-02 AID-05 CIEP-02 SS-15

ITC-01 USIA-15 PRS-01 SP-02 OMB-01 FEA-01 /105 R

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APPROVED BY EB/OT/GCP:SAHMAD

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COMMERCE:BMILLER

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FM SECSTATE WASHDC

TO AMEMBASSY PORT OF SPAIN

UNCLAS STATE 085787

E.O. 11652: N/A

TAGS: ETRD

SUBJECT: GSP IMPLEMENTATION; "SUBSTANTIALLY TRANSFORMED"

REF: PORT OF SPAIN 00311

1. THE U.S. CUSTOMS SERVICE HAS ISSUED A RULING (TD 76-100) INTERPRETING THE TERM "SUBSTANTIALLY TRANSFORMED," AS USED IN CFR PART 10, PARA 10.177 (A)(2), REGARDING GSP ELIGIBILITY FOR ARTICLES IMPORTED INTO THE U.S. FROM BENEFICIARY DEVELOPING COUNTRIES. FULL TEXT SEPTEL.

2. SECTION 10.177 OF THE CUSTOMS REGULATIONS DEFINES THE WORDS "PRODUCED IN THE BENEFICIARY DEVELOPING COUNTRY" AS USED IN SECTION 503 OF THE TRADE ACT OF 1974. THE REGULATION PROVIDES THAT THE COST OR VALUE OF THOSE CONSTITUENT MATERIALS WHICH HAVE BEEN SUBSTANTIALLY UNCLASSIFIED

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TRANSFORMED INTO A NEW AND DIFFERENT ARTICLE OF COMMERCE

IN THE BENEFICIARY DEVELOPING COUNTRY SHALL BE INCLUDED
IN THE COMPUTATION OF THE 35 PERCENT CRITERION FOR GSP.

3. A MANUFACTURING PROCESS WHICH CHANGES AN ITEM FROM ONE BTN CLASSIFICATION TO ANOTHER DOES NOT CONSTITUTE SUBSTANTIAL TRANSFORMATION UNDER THE U.S. CUSTOMS REGULATIONS AND WOULD THEREFORE NOT NECESSARILY QUALIFY A PRODUCT FOR GSP TREATMENT UNDER THE U.S. SCHEME. THE CUSTOMS RULING STATES THAT QUOTE MATERIALS PROCESSED INTO CERTAIN ARTICLES MAY BE CONSIDERED SUBSTANTIALLY TRANSFORMED CONSTITUENT MATERIALS UNQUOTE. THE CUSTOMS RULING SPECIFICALLY CITES THE MANUFACTURE OF GOLD JEWELRY FROM IMPORTED GOLD BARS AS AN EXAMPLE OF SUBSTANTIAL TRANSFORMATION. IT STATES THAT QUOTE GOLD BARS WHICH ARE IMPORTED INTO A BENEFICIARY DEVELOPING COUNTRY ARE CAST INTO MOUNTINGS--RINGS IN WHICH A STONE IS NOT YET SET. SUCH MOUNTINGS ARE SUBSTANTIALLY TRANSFORMED CONSTITUENT MATERIALS OF THE ELIGIBLE ARTICLES OF JEWELRY WHEN THOSE MOUNTINGS BECOME CONSTITUENT ELEMENTS OF A RING MOUNTED WITH A PRECIOUS STONE OF THE BENEFICIARY DEVELOPING COUNTRY AND THEN EXPORTED DIRECTLY FROM THAT BENEFICIARY DEVELOPING COUNTRY UNQUOTE.

4. IT IS NOT EVIDENT FROM REFTTEL THAT THE 42 PERCENT LOCAL VALUE ADDED WOULD QUALIFY UNDER THE CRITERIA SET FORTH IN THE CUSTOMS REGULATIONS. SOME COSTS INCLUDED IN LOCAL ASSESSMENT MAY NOT ALL BE INCLUDED UNDER OUR CRITERIA.

5. HOWEVER, ARTICLES PRODUCED BY THE JOINING AND FITTING TOGETHER OF COMPONENTS ARE NOT CONSIDERED SUBSTANTIALLY TRANSFORMED CONSTITUENT MATERIALS. ARTICLES OF THIS KIND MAY WELL HAVE BEEN SUBSTANTIALLY TRANSFORMED, BUT THEY ARE NOT PRODUCED FROM SUBSTANTIALLY TRANSFORMED CONSTITUENT MATERIALS. UNDER THIS CRITERION, PARTIALLY COMPLETED COMPONENTS WHICH ARE COMPLETED AND ASSEMBLED IN THE BENEFICIARY DEVELOPING COUNTRY INTO FINISHED ARTICLES OR COMPONENTS DO NOT QUALIFY AS SUBSTANTIALLY TRANSFORMED CONSTITUENT MATERIALS. BY THE SAME TOKEN, MOST ASSEMBLY OPERATIONS AND OPERATIONS INCIDENTAL TO ASSEMBLY WILL NOT QUALIFY.

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6. THE EXAMPLES PRESENTED HERE ARE ILLUSTRATIVE ONLY. MORE SPECIFIC INTERPRETATIONS OF THE TERM "MATERIALS" REGARDING SUBSTANTIAL TRANSFORMATION AND OF AN ARTICLE'S QUALIFICATION UNDER THE 35 PERCENT CRITERION SHOULD BE REQUESTED BY INTERESTED PARTIES IN ACCORDANCE WITH PART 177 OF THE CUSTOMS REGULATIONS (19 CFR PART 177).
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